IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 588 of 2004 (M/B)

Keshar Das S/O Bali Ram,
R/O Revenue Village Rampura,
Mhalla Model Colony, Tehsil Kichha,
District Udham Singh Nagar. ……. Petitioner

Versus

1. State Of Uttaranchal,
   Through District Magistrate,
   Udham Singh Nagar.
2. Sub Divisional Magistrate, Rudrapur,
   District Udham Singh Nagar.
3. A.N. Jha Govt. Intermediate College,
   Rudrapur,
   District Udham Singh Nagar,
   Through Its Principal. …… Respondents.

Mr. Rakesh Thapliyal Advocate for the petitioner.
Mr. N.C. Gupta, Standing counsel for the respondents.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. M.M. Ghildiyal, J.

RAJEEV GUPTA, CJ. (Oral)

Mr. Rakesh Thapliyal Advocate for the petitioner.

Mr. N.C. Gupta, Standing counsel for the respondents.

They are heard.

2. Petitioner Keshar Das filed this writ petition in the year 2004 for the following reliefs:

> "a. Issue a writ, order or direction in the nature of Certiorari to quash the order dated 19.06.2004 (filed as Annexure 9) passed by the District Magistrate, Udham Singh Nagar;
>
> b. Issue a writ, order or direction in the nature of mandamus directing the respondents to permit the petitioner to dispose of the trees which are lying and standing over the plot

owned by the petitioner after taking into consideration report submitted by the Naib Tehsildar as well as order passed by the SDM.

c. Issue any suitable writ, order or direction in the nature of which this Hon'ble Court may deem fit and proper in the circumstances of the case.

d. Award the cost of the writ petition to the petitioner."

3. The petitioner is aggrieved of the impugned order dated 19.06.2004 passed by the District Magistrate, Udham Singh Nagar, whereby the earlier order dated 19.05.2004 was modified and it was directed that the cut tree, which were the subject matter of the proceedings between the parties before the Sub Divisional Magistrate, Rudrapur, Udham Singh Nagar, be sold in a public auction and the proceeds of the auction be deposited in the Tehsil for being released in favour of the succeeding party in the proceedings pending before Sub Divisional Magistrate, Rudrapur, Udham Singh Nagar.

4. On due consideration of the submissions of the learned counsel for the parties, we are satisfied that the impugned order does not suffer from any infirmity, which may warrant interference by this Court. The impugned order, on the other hand, equally protects that interest the both the contesting parties, as the sale proceeds of the cut trees would be released in favour of the succeeding party.

5. We, therefore, do not find any good ground for grant of any of the reliefs sought be the petitioner in the writ petition.

6. The writ petition, therefore, is liable to be dismissed and is, hereby, dismissed.

(M.M.Ghildiyal, J.) **(Rajeev Gupta, C.J.)**
12.05.2006 **12.05.2006**

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